

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00107

Israel Antonio Torres,
Plaintiff,

v.

Kenneth Faust et al.,
Defendants.

ORDER

Plaintiff Israel Antonio Torres, a prisoner of the Texas Department of Criminal Justice proceeding pro se, filed a petition alleging violations of his constitutional rights in prison. The case was transferred to this court for proper venue and referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b).


On April 19, 2023, the magistrate judge issued a report recommending that plaintiff's case be dismissed for his failure to comply with an order to file a proper amended complaint and a properly supported application to proceed *in forma pauperis*. Doc. 12. Plaintiff objected. Doc. 13.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal because plaintiff had not satisfied the filing fee requirement for this case and had not complied with the court's order to file an amended complaint in a permissible form. Doc. 12. Plaintiff's objection addresses only the filing fee issue and claims that he had attempted to mail an application for pauper's status. Doc. 13. The court contemporaneously received plaintiff's application to proceed *in forma pauperis* (Doc. 14), but it was not accompanied by "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each [facility] at which the prisoner is or was

confined,” as expressly required by the court’s previous order. Doc. 7 at 3 (quoting 28 U.S.C. § 1915(a)(2)). And plaintiff’s objection does not even address the magistrate judge’s finding that he failed to submit a viable amended pleading despite clear instructions to do so and the provision of a form complaint for his use.

Having reviewed the magistrate judge’s report de novo and being satisfied that it contains no error, the court overrules plaintiff’s objections and accepts the report’s findings and recommendation. Plaintiff’s case is dismissed due to his failure to comply with the orders of the court and to take the steps necessary to prosecute his claims.

So ordered by the court on May 31, 2023.



J. CAMPBELL BARKER
United States District Judge